

Senate Daily Reader

Tuesday, March 02, 1999

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State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

347C0060

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **HB1004** - 2/26/99

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: Representatives Crisp, Derby, Fischer-Clemens, Konold, and Munson (Donald)
and Senators Olson, Hutmacher, and Vitter at the request of the Interim
Transportation Committee

1 FOR AN ACT ENTITLED, An Act to increase and revise license fees for certain noncommercial
2 vehicles, to revise the distribution of license fees, and to increase the excise tax on certain
3 motor fuels.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 10-47B-4 be amended to read as follows:

6 10-47B-4. The fuel excise tax rates for the tax imposed by this chapter are as follows:

- 7 (1) Motor fuel (except ethanol blends, E85 and M85 blends, and aviation gasoline) ~~-\$18~~
8 \$22 per gallon;
- 9 (2) Special fuel (except jet fuel) ~~-\$18~~ \$22 per gallon;
- 10 (3) Ethanol blends ~~-\$16~~ \$20 per gallon;
- 11 (4) Aviation gasoline ~~-\$06~~ \$20 per gallon;
- 12 (5) Jet fuel ~~-\$04~~ \$20 per gallon;
- 13 (6) E85 and M85 ~~-\$06~~ \$10 per gallon;
- 14 (7) E85 and M85 used in aircraft ~~-\$04~~ \$20 per gallon;
- 15 (8) Liquid petroleum gas ~~-\$16~~ \$20 per gallon;

1 (9) Compressed natural gas ~~-\$06~~ \$.10 per gallon.

2 Section 2. That § 32-5-6 be amended to read as follows:

3 32-5-6. License fees and compensation on a noncommercial motor vehicle which is an
4 automobile, pickup truck, or van as provided by § 32-5-5, shall be determined by the
5 manufacturer's shipping weight, including accessories, as follows:

6 (1) Two thousand pounds or less, inclusive, ~~twenty~~ thirty-two dollars;

7 (2) From 2,001 to 4,000 pounds, inclusive, ~~thirty~~ forty-two dollars;

8 (3) From 4,001 to 6,000 pounds, inclusive, ~~forty~~ fifty-two dollars;

9 (4) ~~to (11) Repealed by SL 1992, ch 26, § 7~~ From 6,001 to 8,000 pounds, inclusive,
10 sixty-two dollars;

11 (5) From 8,001 to 10,000 pounds, inclusive, seventy-two dollars.

12 Section 3. That § 32-5-6.1 be amended to read as follows:

13 32-5-6.1. License fees and compensation on recreational motor buses as defined by this
14 section shall be determined pursuant to § 32-5-6.3. However, the maximum license fee and
15 compensation for a recreational motor bus shall be one hundred and twelve dollars. For the
16 purposes of this section the term, recreational motor bus, means a motor bus which has been
17 converted for recreational purposes subsequent to the initial retail sale.

18 Section 4. That § 32-5-6.3 be amended to read as follows:

19 32-5-6.3. License fees on a noncommercial motor vehicle which is not an automobile, pickup
20 truck, or van ~~as provided by~~ licensed pursuant to § 32-5-6 shall be determined by the gross
21 weight of the motor vehicle as defined by subdivision 32-9-1(6), and based on the following:

22 (1) Eight thousand pounds or less, inclusive, ~~forty-eight~~ sixty dollars;

23 (2) For each additional 2,000 pounds or major fraction thereof from 8,001 to 32,000
24 pounds, inclusive, three dollars;

25 (3) For each additional 2,000 pounds or major fraction thereof from 32,001 to 54,000

1 pounds, inclusive, six dollars;

2 (4) For each additional 2,000 pounds or major fraction thereof from 54,001 to 80,000
3 pounds, inclusive, eighteen dollars;

4 (5) For each additional 2,000 pounds or major fraction thereof in excess of 80,000
5 pounds, twenty-four dollars.

6 It is a Class 2 misdemeanor for a person to operate a motor vehicle licensed pursuant to this
7 section at a gross weight in excess of the gross weight for which it has been licensed.

8 Section 5. That § 32-5-8 be amended to read as follows:

9 32-5-8. License fees and compensation for any recreational vehicle as defined in § 32-3-1 or
10 for any noncommercial trailer and semitrailer, for use of the highways payable under § 32-5-5
11 and pulled by a noncommercial motor vehicle on which the license fees were paid pursuant to
12 § 32-5-6, shall be determined upon the basis of their actual weight as follows:

13 (1) One thousand pounds or less, inclusive, ~~five~~ seven dollars;

14 (2) From 1,001 to 2,000 pounds, inclusive, ~~fifteen~~ seventeen dollars;

15 (3) From 2,001 to 3,000 pounds, inclusive, ~~twenty-five~~ twenty-seven dollars;

16 (4) From 3,001 to 4,000 pounds, inclusive, ~~thirty-five~~ thirty-seven dollars;

17 (5) From 4,001 to 5,000 pounds, inclusive, ~~forty-five~~ forty-seven dollars;

18 (6) From 5,001 to 6,000 pounds, inclusive, ~~fifty-five~~ fifty-seven dollars;

19 (7) From 6,001 to 7,000 pounds, inclusive, ~~sixty-five~~ sixty-seven dollars;

20 (8) From 7,001 to 8,000 pounds, inclusive, ~~seventy-five~~ seventy-seven dollars;

21 (9) From 8,001 to 9,000 pounds, inclusive, ~~eighty-five~~ eighty-seven dollars;

22 (10) From 9,001 to 10,000 pounds, inclusive, ~~ninety-five~~ ninety-seven dollars;

23 (11) For each additional 1,000 pounds or major fraction thereof, in excess of 10,000
24 pounds, ten dollars.

25 Any trailer or semitrailer licensed pursuant to this section may be pulled by a noncommercial

1 motor vehicle licensed pursuant to § 32-5-8.1 or a commercially licensed motor vehicle if the
2 motor vehicle is registered at a gross weight to cover the weight of the trailer and its load.

3 Section 6. That § 32-5-8.1 be amended to read as follows:

4 32-5-8.1. Each trailer or semitrailer pulled by a noncommercial motor vehicle on which the
5 license fees were paid pursuant to § 32-5-6.3 shall have an identification plate displayed in a
6 conspicuous manner. The fee for the identification plate is ten dollars. The identification plate
7 is valid for the useful life of the trailer or semitrailer. However, if the title to the trailer or
8 semitrailer is transferred, the new owner shall within thirty days of the date of transfer make
9 application to the department for a new identification plate. All revenue raised by the fees shall
10 be placed in the license plate special revenue fund. However, no identification plate may be
11 displayed on a recreational vehicle as defined in § 32-3-1. Such a recreational vehicle shall be
12 licensed pursuant to § 32-5-8.

13 Section 7. That § 32-5-9 be amended to read as follows:

14 32-5-9. License fees and compensation for use of the highways payable under § 32-5-5 shall
15 be: ~~seven~~ nine dollars and fifty cents for motorcycles with a piston displacement of less than three
16 hundred fifty cubic centimeters and ~~ten~~ twelve dollars for motorcycles with a piston displacement
17 of three hundred fifty cubic centimeters or more.

18 Section 8. That § 32-6B-21 be amended to read as follows:

19 32-6B-21. The department shall issue metal numerical license plates to licensed dealers upon
20 application and payment of a ~~thirty~~ forty-two dollar yearly fee to be paid at the time of the annual
21 review date for each set desired. Such fees shall be distributed in the manner specified in
22 §§ 32-11-2 and 32-11-4.1 to 32-11-9, inclusive. The license plates shall be numbered
23 consecutively and shall bear as a prefix the number "77". The plates may be issued for a multiple
24 year period. If a dealer's license is revoked or canceled or the dealer goes out of business the
25 "77" plates shall be returned to the department. If any person operates a motor vehicle with "77"

plates after the dealer license is revoked or canceled or after the dealer goes out of business, or if the person refuses to return the plates, the person is guilty of a Class 2 misdemeanor.

Section 9. That § 32-10-35 be amended to read as follows:

32-10-35. Fees collected by the secretary of revenue and not otherwise provided for shall be distributed as provided by this section. Fees collected under chapter 32-10 by the secretary of revenue pursuant to § 32-5B-1 shall be deposited in the state highway fund. Fees collected under chapter 32-10 by the secretary of revenue pursuant to chapter 32-9 shall be distributed with ~~fifty-four~~ fifty-seven percent to the ~~state highway~~ local government highway and bridge fund, forty-one and one-half percent to counties, ~~two~~ one-half percent to the state motor vehicle fund, and ~~two and one-half~~ one percent to the state license plate special revenue fund. The counties' portion shall be distributed among the counties, pro rata, twenty-five percent according to truck registrations, twenty-five percent according to population, and fifty percent according to total road mileage. Each county shall distribute fifty-four percent of its portion to the county general fund, thirty-four percent of its portion to the special highway fund as provided by § 32-11-4.1, and twelve percent of its portion to the municipalities of the county pursuant to § 32-11-4.1.

Section 10. There is hereby appropriated each fiscal year from the state highway fund the sum of one million thirty-three thousand two hundred sixty-nine dollars and ten cents to the Department of Revenue for distribution to the counties. The moneys shall be distributed to the counties in the same amounts as funds were distributed to the counties by the Department of Game, Fish and Parks for license fees in calendar year 1997, pursuant to § 41-6-70. The moneys shall be deposited in the special highway fund of each county. The secretary of revenue shall distribute the money prior to December thirty-first of each year.

Section 11. Whereas, section 1 of this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and section 1 of this Act shall be in full force and effect from and after April 1, 1999.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Transportation. H.J. 32

3 1/20/99 Scheduled for Committee hearing on this date.

4 2/10/99 Scheduled for Committee hearing on this date.

5 2/10/99 Transportation Do Pass Amended, Passed, AYES 8, NAYS 5. H.J. 478

6 2/16/99 House of Representatives Deferred to another day. H.J. 552

7 2/17/99 House of Representatives Do Pass Amended, Passed, AYES 48, NAYS 21. H.J. 579

8 2/18/99 First read in Senate and referred to Transportation. S.J. 565

9 2/23/99 Scheduled for Committee hearing on this date.

10 2/25/99 Transportation Hog Housed.

11 2/25/99 Transportation Do Pass Amended, Passed, AYES 6, NAYS 0. S.J. 675

12 2/25/99 Scheduled for Committee hearing on this date.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

664C0575

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB1164** - 2/19/99

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: Representatives Wetz, Klaudt, McNenny, and Young and Senators Brown (Arnold), Benson, and Bogue

1 FOR AN ACT ENTITLED, An Act to provide certain injunctive relief against unwarranted
2 emergency zoning ordinances, zoning maps, and other official controls.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 11-2 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any person who is aggrieved by the adoption of an emergency temporary zoning ordinance
7 pursuant to § 11-2-10 or any other emergency ordinance, zoning map, or other official control
8 authorized pursuant to this chapter may seek an injunction against it in any court of appropriate
9 jurisdiction based on the grounds that the emergency temporary zoning ordinance or other
10 emergency ordinance, zoning map, or official control authorized pursuant to this chapter is not
11 necessary to protect the public health, safety, and public welfare. If the court finds that the
12 emergency temporary zoning ordinance or other emergency ordinance, zoning map, or official
13 control authorized pursuant to this chapter is not necessary to protect the public health, safety,
14 and general welfare, the court shall declare the ordinance or other emergency ordinance, zoning
15 map, or official control authorized pursuant to this chapter null and void.

1 **BILL HISTORY**

2 1/26/99 First read in House and referred to Local Government. H.J. 191

3 2/4/99 Scheduled for Committee hearing on this date.

4 2/9/99 Scheduled for Committee hearing on this date.

5 2/9/99 Local Government Tabled, AYES 9, NAYS 3. H.J. 430

6 2/16/99 Local Government Removed from Table, AYES 9, NAYS 4.

7 2/18/99 Local Government Hog Housed.

8 2/18/99 Scheduled for Committee hearing on this date.

9 2/18/99 Local Government Do Pass Amended, Passed, AYES 11, NAYS 0. H.J. 599

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

226C0443

SENATE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **HB1178** - 3/1/99

Introduced by: Representatives Richter, Broderick, Brooks, Brown (Richard), Cerny, Chicoine, Davis, Duniphan, Fiegen, Fischer-Clemens, Haley, Koetzle, Konold, Lucas, McIntyre, Michels, Monroe, Munson (Donald), Nachtigal, Peterson, Putnam, Roe, Slaughter, Solum, Sutton (Daniel), Sutton (Duane), Wilson, and Windhorst and Senators Everist, Albers, Brown (Arnold), Dunn (Jim), Flowers, Hainje, Ham, Hutmacher, Madden, Moore, Munson (David), Olson, Paisley, Shoener, Staggers, Symens, and Vitter

1 FOR AN ACT ENTITLED, An Act to revise the state aid for special education funding formula.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 13-37-35 be repealed.

4 ~~—13-37-35. Terms used in §§ 13-37-35 to 13-37-48, inclusive, mean:~~

5 ~~—(1)—"Resident average daily membership," the average number of resident kindergarten~~
6 ~~through twelfth grade pupils enrolled in all schools operated by the school district~~
7 ~~during the previous regular school year plus the average number of pupils for whom~~
8 ~~the district pays tuition and plus the average number of resident pupils enrolled in~~
9 ~~another school district under the provisions of § 13-28-40;~~

10 ~~—(2)—"Index factor," is the annual percentage change in the consumer price index for urban~~
11 ~~wage earners and clerical workers as computed by the Bureau of Labor Statistics of~~
12 ~~the United States Department of Labor for the year before the year immediately~~
13 ~~preceding the year of adjustment or three percent, whichever is less;~~

1 ~~— (3) — "Local effort," is the amount of taxes payable each year, using the maximum levy for~~
2 ~~the special education fund of a school district pursuant to § 13-37-16;~~

3 ~~— (4) — "Allocation for a student with a mild disability," for the period January 1, 1997,~~
4 ~~through June 30, 1997, is \$892. For school fiscal year beginning July 1, 1997, the~~
5 ~~allocation for a student with a mild disability shall be \$1,785 increased by the lesser~~
6 ~~of the index factor or three percent. For each school year thereafter, the allocation for~~
7 ~~a student with a mild disability shall be the previous fiscal year's allocation for such~~
8 ~~child increased by the lesser of the index factor or three percent;~~

9 ~~— (5) — "Allocation for a student with a severe disability," for the period January 1, 1997,~~
10 ~~through June 30, 1997, is \$10,707. For school fiscal year beginning July 1, 1997, the~~
11 ~~allocation for a child with a severe disability shall be \$21,415 increased by the lesser~~
12 ~~of the index factor or three percent. For each school year thereafter, the allocation for~~
13 ~~a child with a severe disability shall be the previous fiscal year's allocation for such~~
14 ~~child increased by the lesser of the index factor or three percent;~~

15 ~~— (6) — "Local need," an amount to be determined as follows:~~

16 ~~— (i) — Multiply the resident average daily membership times 0.1025;~~

17 ~~— (ii) — Multiply the result of (i) times the allocation for a student with a mild disability;~~

18 ~~— (iii) — Multiply the resident average daily membership times 0.015;~~

19 ~~— (iv) — Multiply the result of (iii) times the allocation for a student with a severe~~
20 ~~disability;~~

21 ~~— (v) — Add together the result of (ii) and the result of (iv);~~

22 ~~— (7) — "Student with mild disability," is a student whose performance level is not sufficient~~
23 ~~to demonstrate success in the regular education environment without the provision~~
24 ~~of special education, and who meets eligibility criteria under Part B, IDEA, or both;~~

25 ~~— (8) — "Student with severe disability," is a student with a low-incidence disability who:~~

1 ~~_____ (a) Meets eligibility criteria under Part B, IDEA; and~~

2 ~~_____ (b) Presents needs which require intervention skills which are substantially~~
3 ~~different from those provided to nondisabled students, in that the skills are~~
4 ~~disability-specific and require special training, equipment, and facilities to~~
5 ~~perform;~~

6 ~~_____ (9) "Effort factor," the school district's special education tax levy in dollars per thousand~~
7 ~~divided by \$1.40.~~

8 Section 2. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 Terms used in chapter 13-37 mean:

11 (1) "Level one disability," a mild disability;

12 (2) "Level two disability," a mental retardation or emotional disorder;

13 (3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-
14 blindness, orthopedic impairment, or traumatic brain injury;

15 (4) "Level four disability," autism;

16 (5) "Level five disability," multiple disabilities;

17 (6) "Index factor," is the annual percentage change in the consumer price index for urban
18 wage earners and clerical workers as computed by the Bureau of Labor Statistics of
19 the United States Department of Labor for the year before the year immediately
20 preceding the year of adjustment or three percent, whichever is less;

21 (7) "Local effort," is the amount of taxes payable each year, using a levy for the special
22 education fund of a school district of one dollar and thirty-five cents per thousand
23 dollars of taxable valuation;

24 (8) "Allocation for a student with a level one disability," for the school fiscal year
25 beginning July 1, 1999, is \$3,504. For each school year thereafter, the allocation for

1 a student with a level one disability shall be the previous fiscal year's allocation for
2 such child increased by the lesser of the index factor or three percent;

3 (9) "Allocation for a student with a level two disability," for the school fiscal year
4 beginning July 1, 1999, is \$7,914. For each school year thereafter, the allocation for
5 a student with a level two disability shall be the previous fiscal year's allocation for
6 such child increased by the lesser of the index factor or three percent;

7 (10) "Allocation for a student with a level three disability," for the school fiscal year
8 beginning July 1, 1999, is \$10,116. For each school year thereafter, the allocation for
9 a student with a level three disability shall be the previous fiscal year's allocation for
10 such child increased by the lesser of the index factor or three percent;

11 (11) "Allocation for a student with a level four disability," for the school fiscal year
12 beginning July 1, 1999, is \$14,705. For each school year thereafter, the allocation for
13 a student with a level four disability shall be the previous fiscal year's allocation for
14 such child increased by the lesser of the index factor or three percent;

15 (12) "Allocation for a student with a level five disability," for the school fiscal year
16 beginning July 1, 1999, is \$15,808. For each school year thereafter, the allocation for
17 a student with a level five disability shall be the previous fiscal year's allocation for
18 such child increased by the lesser of the index factor or three percent;

19 (13) "Child count," is the number of students in need of special education or special
20 education and related services according to criteria set forth in rules promulgated
21 pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education
22 and Cultural Affairs in accordance with rules promulgated pursuant to § 13-37-1.1;

23 (14) "Resident average daily membership," the average number of resident kindergarten
24 through twelfth grade pupils enrolled in all schools operated by the school district
25 during the previous regular school year plus the average number of pupils for whom

1 the district pays tuition and plus the average number of resident pupils enrolled in
2 another school district under the provisions of § 13-28-40;

3 (15) "Nonpublic school," a sectarian organization or entity which is accredited by the
4 secretary of education and cultural affairs for the purpose of instructing children of
5 compulsory school age. This definition excludes any school that receives a majority
6 of its revenues from public funds;

7 (16) "Nonpublic average daily membership," the average number of kindergarten through
8 twelfth grade pupils enrolled during the previous regular school year in all nonpublic
9 schools located within the boundaries of the public school district plus the average
10 number of children under age sixteen who are approved for alternative instruction
11 pursuant to § 13-27-2 during the previous school year;

12 (17) "Special education average daily membership," resident average daily membership
13 plus nonpublic average daily membership;

14 (18) "Local need," an amount to be determined as follows:

15 (a) Multiply the special education average daily membership by 0.089 and multiply
16 the result by the allocation for a student with a level one disability;

17 (b) Multiply the number of students having a level two disability as reported on the
18 child count for the previous school fiscal year by the allocation for a student
19 with a level two disability;

20 (c) Multiply the number of students having a level three disability as reported on
21 the child count for the previous school fiscal year by the allocation for a
22 student with a level three disability;

23 (d) Multiply the number of students having a level four disability as reported on the
24 child count for the previous school fiscal year by the allocation for a student
25 with a level four disability;

1 (e) Multiply the number of students having a level five disability as reported on the
2 child count for the previous school fiscal year by the allocation for a student
3 with a level five disability;

4 (f) Sum the results of (a) through (e);

5 (19) "Effort factor," the school district's special education tax levy in dollars per thousand
6 divided by \$1.35.

7 Section 3. That § 13-37-36 be repealed.

8 ~~13-37-36. The secretary of the Department of Education and Cultural Affairs shall compute~~
9 ~~state aid for special education for each school district according to the following calculations:~~

10 ~~(1) Determine each school district's average daily membership;~~

11 ~~(2) Calculate the local need of a school district;~~

12 ~~(3) State aid for special education is:~~

13 ~~(a) Local need minus local effort, the difference multiplied times the effort factor;~~

14 ~~or~~

15 ~~(b) Zero if the calculation in (a) is a negative number.~~

16 Section 4. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as
17 follows:

18 The secretary of the Department of Education and Cultural Affairs shall compute state aid
19 for special education for each school district according to the following calculations:

20 (1) Calculate the local need of a school district;

21 (2) State aid for special education is:

22 (a) Local need minus local effort, the difference multiplied by the effort factor; or

23 (b) Zero if the calculation in (a) is a negative number.

24 Section 5. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as
25 follows:

1 Any records related to the reporting of the child count of a public school district shall be
2 subject to examination by the Department of Education and Cultural Affairs at all times.

3 Section 6. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 If, in the department's examination of the child count, it is determined that the data was
6 overreported, the department shall recover from the district's special education fund twice the
7 amount of state aid overpaid as a result of the overreporting. Upon recovery of the overpayment,
8 the department shall deposit the overpayment into the state general fund. If the overreporting
9 occurred with the intent to increase the amount of state aid received by overreporting, the
10 individual responsible for the overreporting may be charged with a Class 1 misdemeanor as
11 provided in § 13-8-44, with the maximum penalty as defined in § 22-6-2.

12 Section 7. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 For the transition period from school fiscal year 2000 through school fiscal year 2003, state
15 aid for special education shall be determined according to the following calculations:

- 16 (1) Multiply local need of a school district by 0.96 in school fiscal year 2000, 0.97 in
17 school fiscal year 2001, 0.98 in school fiscal year 2002, and 0.99 in school fiscal year
18 2003;
- 19 (2) After making the adjustment to local need pursuant to subdivision (1) of this section,
20 calculate state aid for special education pursuant to section 4 of this Act;
- 21 (3) Subtract the result of subdivision (2) from the amount of state aid received pursuant
22 to § 13-37-36 or 13-37-43 in school fiscal year 1999;
- 23 (4) Multiply the result of subdivision (3) by 0.80 in school fiscal year 2000, 0.60 in school
24 fiscal year 2001, 0.40 in school fiscal year 2002, and 0.20 in school fiscal year 2003;
- 25 (5) Add the result of subdivision (2) to the result of subdivision (4);

1 (6) State aid for special education is the greater of the result of subdivision (2) or the
2 result of subdivision (5).

3 Section 8. That § 13-37-44 be amended to read as follows:

4 13-37-44. A school district's state aid for special education as calculated pursuant to section
5 4 or section 7 of this Act shall be reduced by the amount which its ending special education fund
6 balance exceeds twenty percent of its special education expenditures for the prior fiscal year or
7 fifty thousand dollars, whichever is greater, if the school district did not receive money set aside
8 in §§ ~~13-37-38 to 13-37-40, inclusive~~, during the prior fiscal year; or the amount which its
9 ending special education fund balance exceeds five percent of its special education expenditures
10 for the prior fiscal year if the school district received money set aside in §§ 13-37-38 to
11 13-37-40, inclusive, during the prior fiscal year.

12 Section 9. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 In addition to the purposes specified in § 13-37-40, money set aside pursuant to § 13-37-40
15 may be used by the Department of Education and Cultural Affairs to establish and maintain a
16 program to assist school districts with legal matters relating to special education, to employ
17 personnel to audit school districts for compliance with the provisions of this Act, to establish and
18 maintain state protocols to assist school districts in developing individualized education plans,
19 or to purchase assistive technology for students with a level two, three, four, or five disability.

20 Section 10. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as
21 follows:

22 For the purpose of calculating state aid pursuant to this chapter, a level five disability must
23 meet criteria for at least two disability categories in levels two and three, excluding the disability
24 of deaf-blindness. Any child reported on the child count between ages three to five years old,
25 inclusive, may not be included as either a level two, three, four, or five disability.

1 Section 11. The Department of Education and Cultural Affairs may promulgate rules
2 pursuant to chapter 1-26 to define the various disabilities in this Act.

3 Section 12. Section 9 of this Act is effective June 15, 1999.

1 **BILL HISTORY**

2 1/26/99 First read in House and referred to Education. H.J. 194

3 2/16/99 Scheduled for Committee hearing on this date.

4 2/16/99 Education Deferred to another day.

5 2/18/99 Scheduled for Committee hearing on this date.

6 2/18/99 Education Do Pass Amended, Passed, AYES 11, NAYS 2. H.J. 600

7 2/19/99 House of Representatives Placed on Calendar. H.J. 645

8 2/22/99 Motion to Amend, Passed. H.J. 683

9 2/22/99 House of Representatives Do Pass Amended, Passed, AYES 52, NAYS 18. H.J. 688

10 2/23/99 First read in Senate and referred to State Affairs. S.J. 645

11 2/26/99 Scheduled for Committee hearing on this date.

12 2/26/99 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 1. S.J. 703

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

235C0610

HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB1184** - 2/10/99

Introduced by: Representatives Chicoine and Broderick and Senator Albers

1 FOR AN ACT ENTITLED, An Act to allow for the transfer of money from a school district's
2 special education fund to its general fund under certain circumstances.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 13-16 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 If a school district that contracts pursuant to § 13-15-11 transferred money out of its general
7 fund to its special education fund in the school years ending June 30, 1993, and June 30, 1994,
8 then the school district may at any time transfer from its special education fund to its general
9 fund an amount of money equal to those previous transfers from its general fund to its special
10 education fund.

11 Section 2. Section 1 of this Act is repealed on July 1, 2000.

1 **BILL HISTORY**

2 1/27/99 First read in House and referred to Education. H.J. 209

3 2/2/99 Scheduled for Committee hearing on this date.

4 2/4/99 Scheduled for Committee hearing on this date.

5 2/9/99 Scheduled for Committee hearing on this date.

6 2/9/99 Education Do Pass Amended, Passed, AYES 12, NAYS 1. H.J. 431

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

911C0167

SENATE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **HB1218** - 3/1/99

Introduced by: Representatives Richter, Brown (Richard), Clark, Duniphan, Fiegen, Haley, Lucas, Smidt, and Waltman and Senators Duxbury, Brosz, Frederick, Olson, and Paisley

1 FOR AN ACT ENTITLED, An Act to create a postsecondary education loan and scholarship
2 program and to make an appropriation therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby created the South Dakota education loan and scholarship program
5 to provide postsecondary education loans and scholarships for eligible students of institutions
6 of higher education located in South Dakota who are South Dakota high school graduates.

7 Section 2. Terms used in this Act mean:

8 (1) "Board," the South Dakota Board of Regents;

9 (2) "Eligible student," any South Dakota high school graduate who is a full-time student
10 at an eligible institution;

11 (3) "Fund," the South Dakota education loan and scholarship program fund;

12 (5) "Program," the South Dakota education loan and scholarship program;

13 (6) "South Dakota high school graduate," any graduate of a public or private high school
14 in South Dakota, or a South Dakota resident who graduated from a high school in a
15 neighboring state where the student had attended high school pursuant to a contract

1 according to chapter 13-15, if the student graduated in the academic year immediately
2 preceding the initial award of the loan; and

3 (7) "Eligible institution," any accredited institution of higher education located in South
4 Dakota.

5 Section 3. There is hereby created in the state treasury the South Dakota education loan and
6 scholarship program fund into which shall be deposited any appropriations, private donations,
7 grants, and other funds provided to the board for loans and scholarships pursuant to this Act. All
8 revenues generated by loan repayments and any penalties received pursuant to this Act shall also
9 be deposited in the fund. Expenditures from the fund shall be in the ratio of one general fund
10 dollar to every four dollars from other sources.

11 Section 4. The Board of Regents shall oversee the fund created in this Act and make loans
12 and scholarships to eligible students as funds are available based upon recommendations from
13 one of the eligible institutions.

14 Section 5. No loan or scholarship made pursuant to this Act may exceed the cost of tuition
15 and mandatory fees for a full-time student as defined by the Board of Regents.

16 Section 6. The Board of Regents shall promulgate rules, pursuant to chapter 1-26, to process
17 loan and scholarship applications, to determine a means of selecting eligible students to receive
18 loans and scholarships if applications exceed available money in the fund, and to govern
19 satisfactory progress and conditions under which an eligible student may enroll at less than a full-
20 time basis, including conditions under which a student may withdraw from an institution without
21 penalty.

22 Section 7. Any student selected for a loan or scholarship pursuant to this Act shall sign a
23 contract agreeing to comply with the rules promulgated by the board.

24 Section 8. An eligible student may participate in the program for up to eight semesters,
25 whether consecutive or not. No student may participate in the program for more than seven years

1 after commencing participation, whether consecutive or not. Any student who receives a loan
2 or scholarship and who fails to maintain satisfactory academic progress is ineligible for continued
3 participation and is ineligible for forgiveness of any loan received.

4 Section 9. The board may establish program requirements which allow eligible students to
5 qualify for forgiveness of a loan or loans received through the program.

6 Section 10. There is hereby appropriated from the general fund the sum of two hundred four
7 thousand dollars (\$204,000), or so much thereof as may be necessary, to the Board of Regents
8 for deposit in the South Dakota education loan and scholarship program fund to make loans and
9 scholarships pursuant to this Act.

10 Section 11. There is hereby appropriated the sum of eight hundred sixteen thousand dollars
11 (\$816,000) of other fund expenditure authority to the Board of Regents to make loans pursuant
12 to this Act.

13 Section 12. The Board of Regents shall annually determine, based upon each institution's
14 percentage share of the most recent statewide total of full-time equivalent student fall enrollment
15 of South Dakota residents, the total amount of loans and scholarships which may be allocated
16 to each eligible institution. If an eligible institution does not participate in the program, its share
17 of the amount available for loans and scholarships shall be redistributed to the participating
18 eligible institutions.

19 Section 13. The executive director of the Board of Regents shall approve vouchers and the
20 state auditor shall draw warrants to pay expenditures authorized by this Act.

21 Section 14. Any amounts appropriated in this Act not lawfully expended or obligated by
22 June 30, 2000, shall revert in accordance with § 4-8-21.

23 Section 15. The Board of Regents shall annually provide the state treasurer a report
24 indicating the recipients of loans and scholarships pursuant to this Act, and copies of contracts.

25 Section 16. The state treasurer is directed to transfer to the state general fund the sum of two

- 1 hundred four thousand dollars (\$204,000) from the private activity bond fees fund, created in
- 2 § 1-7-10, for the purposes of this Act.

1 **BILL HISTORY**

2 1/27/99 First read in House and referred to State Affairs. H.J. 216

3 1/28/99 Referred to State Affairs. H.J. 240

4 2/1/99 House of Representatives Referred to Appropriations. H.J. 278

5 2/12/99 Scheduled for Committee hearing on this date.

6 2/12/99 Appropriations Deferred to another day.

7 2/17/99 Scheduled for Committee hearing on this date.

8 2/18/99 Scheduled for Committee hearing on this date.

9 2/18/99 Appropriations Do Pass Amended, Passed, AYES 9, NAYS 0. H.J. 594

10 2/19/99 House of Representatives Placed on Calendar. H.J. 645

11 2/22/99 Motion to Amend, Passed. H.J. 680

12 2/22/99 House of Representatives Do Pass Amended, Passed, AYES 54, NAYS 16. H.J. 681

13 2/23/99 First read in Senate and referred to State Affairs. S.J. 645

14 2/26/99 Scheduled for Committee hearing on this date.

15 2/26/99 State Affairs Do Pass Amended, Passed, AYES 7, NAYS 1. S.J. 706

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

982C0834

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB1293** - 3/1/99

Introduced by: Representatives Young, Diedrich (Larry), Duenwald, Eccarius, Engbrecht, Fiegen, Fitzgerald, Garnos, Juhnke, Koskan, McCoy, McNenny, Michels, Monroe, Napoli, Peterson, Pummel, Putnam, Slaughter, and Solum and Senators Whiting, Benson, Bogue, Drake, and Madden

1 FOR AN ACT ENTITLED, An Act to protect an employee's pay check by requiring prior
2 written authorization to collect fees for political activity.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. An organization governed by chapter 3-18 or 60-9 and recognized as the exclusive
5 representative of an employee unit may collect from any person a fee or other payment that can
6 be used for political activity if the organization has received a separate, prior written
7 authorization from the person for political activity. The authorization remains in effect until
8 revoked and it may be revoked at any time upon written notice.

9 Section 2. Any member of an organization as of the effective date of this Act is deemed to
10 have been given notice and to have authorized political activity if the organization issues
11 information on a periodic basis detailing the activity. A periodic basis is not less than four times
12 per year. This section does not apply to any political party.

13 Section 3. For the purposes of this Act, the term, political activity, means any contribution,
14 expenditure, or valuable consideration in whatever form:

15

- 1 (1) To a candidate, candidate's committee, political party committee, ballot question
2 committee, or political action committee;
- 3 (2) In furtherance of or to defeat the nomination of any person as a candidate for public
4 office or the election of any person to public office; or
- 5 (3) In furtherance of or to defeat any constitutional amendment, initiated measure,
6 referred law, or other question submitted to the voters of the whole state.
- 7 The term does not include lobbying.

1 **BILL HISTORY**

2 2/1/99 First read in House and referred to committee assignment waived. H.J. 286

3 2/2/99 Referred to Commerce. H.J. 318

4 2/18/99 Scheduled for Committee hearing on this date.

5 2/18/99 Commerce Deferred to 41st legislative day, AYES 12, NAYS 1. H.J. 594

6 2/18/99 Commerce Reconsidered, AYES 12, NAYS 0.

7 2/18/99 Commerce Reconsidered.

8 2/18/99 Commerce Report Without Recommendation, AYES 7, NAYS 6. H.J. 625

9 2/18/99 Recalled from committee (Rule 7-7). H.J. 606

10 2/19/99 House of Representatives Placed on Calendar, AYES 36, NAYS 34. H.J. 642

11 2/22/99 Motion to Amend, Passed, AYES 41, NAYS 27. H.J. 674

12 2/22/99 House of Representatives Do Pass Amended, Passed, AYES 36, NAYS 32. H.J. 675

13 2/22/99 House of Representatives Title Amended Passed. H.J. 675

14 2/22/99 Intent to reconsider. H.J. 676

15 2/22/99 House of Representatives Reconsidered, AYES 33, NAYS 34. H.J. 678

16 2/23/99 First read in Senate and referred to State Affairs. S.J. 645

17 2/26/99 Scheduled for Committee hearing on this date.

18 2/26/99 State Affairs Do Pass Amended, Failed, AYES 4, NAYS 4.

19 2/26/99 State Affairs Do Pass Amended, Passed, AYES 5, NAYS 4. S.J. 709

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0825

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **HB1298** - 3/1/99

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: The Committee on State Affairs at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to require all programs and degrees provided by the Board
2 of Regents be offered or conferred by the existing institutions.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 13-53 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 All academic programs offered by the Board of Regents shall be provided directly by the
7 following institutions:

8 (1) University of South Dakota;

9 (2) South Dakota State University;

10 (3) South Dakota School of Mines and Technology;

11 (4) Northern State University;

12 (5) Black Hills State University; or

13 (6) Dakota State University.

14 No postsecondary degrees may be awarded or conferred except by the above institutions.

1 **BILL HISTORY**

2 2/1/99 First read in House and referred to committee assignment waived. H.J. 287

3 2/2/99 Referred to State Affairs. H.J. 319

4 2/8/99 Scheduled for Committee hearing on this date.

5 2/8/99 State Affairs Do Pass, Failed, AYES 5, NAYS 8.

6 2/8/99 State Affairs Deferred to another day.

7 2/10/99 Scheduled for Committee hearing on this date.

8 2/12/99 State Affairs Hog Housed.

9 2/12/99 State Affairs Do Pass Amended, Passed, AYES 11, NAYS 0. H.J. 506

10 2/17/99 House of Representatives Deferred to another day. H.J. 587

11 2/18/99 House of Representatives Do Pass Amended, Passed, AYES 65, NAYS 3. H.J. 620

12 2/22/99 First read in Senate and referred to Appropriations. S.J. 620

13 2/26/99 Scheduled for Committee hearing on this date.

14 2/26/99 Appropriations Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 694

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

547C0803

SENATE COMMERCE COMMITTEE ENGROSSED NO.

HB1302 - 2/26/99

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: Representatives Garnos, Eccarius, and Wilson and Senators Rounds and Dennert

1 FOR AN ACT ENTITLED, An Act to prohibit certain deceptive advertising practices.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 37-24-6 be amended by adding thereto a NEW SUBDIVISION to read as
4 follows:

5 Knowingly advertise or cause to be listed through the internet or in a telephone directory a
6 business address that misrepresents where the business is actually located or that falsely states
7 that the business is located in the same area covered by the telephone directory. This subdivision
8 does not apply to a telephone service provider, an internet service provider, or a publisher or
9 distributor of a telephone directory, unless the conduct proscribed in this subdivision is on behalf
10 of the provider, publisher, or distributor.

1 **BILL HISTORY**

2 2/1/99 First read in House and referred to committee assignment waived. H.J. 288

3 2/2/99 Referred to Commerce. H.J. 319

4 2/16/99 Scheduled for Committee hearing on this date.

5 2/16/99 Commerce Deferred to 41st legislative day.

6 2/16/99 Commerce Tabled, AYES 7, NAYS 6. H.J. 532

7 2/18/99 Commerce Removed from Table, AYES 13, NAYS 0.

8 2/18/99 Commerce Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 594

9 2/19/99 Commerce Hog Housed.

10 2/22/99 House of Representatives Do Pass Amended, Passed, AYES 69, NAYS 0. H.J. 664

11 2/22/99 House of Representatives Title Amended Passed. H.J. 665

12 2/22/99 First read in Senate and referred to Commerce. S.J. 632

13 2/25/99 Scheduled for Committee hearing on this date.

14 2/25/99 Commerce Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 674

15 2/25/99 Commerce Place on Consent Calendar.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

715C0461

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **SB138** - 2/25/99

Introduced by: Senators Hainje, Brown (Arnold), Drake, and Lawler and Representatives
Fiegen, Broderick, Cerny, Cutler, Eccarius, and Windhorst

1 FOR AN ACT ENTITLED, An Act to provide limited liability for the use of automated external
2 defibrillators.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. For the purposes of this Act, AED means an automated external defibrillator.

5 Section 2. Any person who acquires an AED shall ensure that:

6 (1) Expected AED users receive American Heart Association training in cardiopulmonary
7 and AED use, or an equivalent nationally recognized course in cardiopulmonary and
8 AED use;

9 (2) The defibrillator is maintained and tested according to the manufacturer's operational
10 guidelines;

11 (3) There is involvement of a licensed physician in the site's program to ensure
12 compliance with requirements for training, notification, and maintenance; and

13 (4) Any person who renders emergency care or treatment on a person in cardiac arrest
14 by using an AED activates the emergency medical services system as soon as possible
15 and reports any clinical use of the AED to the licensed physician or medical authority.

16 Section 3. Any person who acquires an AED shall notify an agent of the emergency

1 communications or vehicle dispatch center of the existence, location, and type of AED.

2 Section 4. Any person, who in good faith and without compensation, renders emergency care
3 or treatment by the use of an AED is immune from civil liability for any personal injury as a result
4 of such care or treatment, or as a result of an act or failure to act in providing or arranging
5 further medical treatment. The immunity from civil liability for any personal injury under this
6 section includes the licensed physician who is involved with AED site placement, the person who
7 provides the cardiopulmonary and AED site placement, the person who provides the
8 cardiopulmonary and AED training, and the person responsible for the site where the AED is
9 located. This immunity applies only if the requirements of section 2 of this Act are fulfilled.

10 The immunity from civil liability under this Act does not apply if the personal injury results
11 from the gross negligence or willful or wanton misconduct of the person rendering such
12 emergency care.

1 **BILL HISTORY**

2 1/26/99 First read in Senate and referred to Judiciary. S.J. 194

3 1/28/99 Senate Referred to Health and Human Services. S.J. 239

4 1/29/99 Scheduled for Committee hearing on this date.

5 2/3/99 Scheduled for Committee hearing on this date.

6 2/3/99 Health and Human Services Do Pass, Passed, AYES 7, NAYS 0. S.J. 316

7 2/4/99 Senate Do Pass, Passed, AYES 34, NAYS 0. S.J. 340

8 2/5/99 First read in House and referred to Judiciary. H.J. 406

9 2/19/99 Scheduled for Committee hearing on this date.

10 2/19/99 Judiciary Deferred to another day.

11 2/24/99 Judiciary Do Pass Amended, Passed, AYES 10, NAYS 0. H.J. 732

12 2/24/99 Judiciary Place on Consent Calendar.

13 2/24/99 Scheduled for Committee hearing on this date.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

464C0469

HOUSE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **SB149** - 2/25/99

Introduced by: Senators Halverson, Dennert, Dunn (Jim), Everist, Moore, Shoener, and
Symens and Representatives Cutler, Broderick, Chicoine, and Jaspers

1 FOR AN ACT ENTITLED, An Act to require the establishment of a cost recovery method or
2 mechanism for telecommunication companies to recover the cost of certain mandated
3 services and to revise certain provisions regarding dialing parity.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Any decision or order by any agency which requires the provision of telecommunications
8 services, in excess of voice grade local exchange service, shall establish a cost recovery method
9 or mechanism to ensure that the telecommunications company will be able to recover the cost
10 of the investment or expense in a period not to exceed ten years, from the services that result
11 from such mandate. These costs may be recovered either regionally or statewide at the discretion
12 of the agency. This section does not affect any decision or order made by any agency to comply
13 with 47 U.S.C. § 251 as of January 1, 1999.

14 Section 2. That § 49-31-87 be amended to read as follows:

15 49-31-87. Dialing parity, as defined in 47 U.S.C. § 153(15) as of January 1, 1998, for
16 purposes of intraLATA long distance telecommunications services, ~~may not~~ shall be implemented

1 by any local exchange carrier serving more than two hundred thousand retail access lines by
2 order of the commission ~~until all providers of toll services are authorized to provide interLATA~~
3 ~~services which originate in this state~~ on January 1, 2000.

1 **BILL HISTORY**

2 1/26/99 First read in Senate and referred to State Affairs. S.J. 196

3 2/8/99 Scheduled for Committee hearing on this date.

4 2/8/99 State Affairs Do Pass Amended, Passed, AYES 5, NAYS 3. S.J. 362

5 2/8/99 Scheduled for Committee hearing on this date.

6 2/10/99 Motion to Amend, Passed. S.J. 431

7 2/10/99 Senate Do Pass Amended, Passed, AYES 29, NAYS 6. S.J. 432

8 2/11/99 First read in House and referred to State Affairs. H.J. 490

9 2/19/99 Scheduled for Committee hearing on this date.

10 2/22/99 Scheduled for Committee hearing on this date.

11 2/24/99 Scheduled for Committee hearing on this date.

12 2/24/99 State Affairs Do Pass Amended, Passed, AYES 9, NAYS 4. H.J. 733